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September 8, 2004

From: James M. Stipek

Matter No.: 392531

To:	Company:	Fax Number:	Phone Number:
Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	USPTO	1-703-872-9306	703-305-9676 (Examiner Mehmet Geckil)

Number of Pages Transmitted (including this cover sheet): 11

Message: In Re: U.S. Patent Application No. 09/838,993
System and Method for Streaming Media

Enclosed for filing, please find the following: Certificate of Facsimile Transmission (1 page); Transmittal Form (1 page); Fee Transmittal for FY2004 (1 page, in duplicate); Response to Restriction Requirement (____ pages); Petition for Extension of Time (1 page, in duplicate); authorization to charge Deposit Account No. 12-0600 in the amount of \$55.00 for the extension fee; and authorization to charge additional fees that may be required, or credit any overpayment, to Deposit Account No. 12-0600.


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CERTIFICATE OF FACSIMILE TRANSMISSION 37 CFR 1.8			Matter No.
Applicant(s): Charles A. Jennings			392531
Serial No.	Filing Date	Examiner	Group Art Unit
09/838,993	April 20, 2001	Mehmet B. Geckil	2142
Invention System And Method For Streaming Media			
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/838,993
	Filing Date	April 20, 2001
	First Named Inventor	Charles A. Jennings
	Art Unit	2142
	Examiner Name	Mehmet B. Geckil
Total Number of Pages in This Submission	Attorney Docket Number	392531

ENCLOSURES (check all that apply)				
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Certificate of Facsimile Transmission		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	James M. Stipek LATHROP & GAGE LC
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Date	September 8, 2004

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PATENT
Attorney Docket No. 392531

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) Jennings
Serial No. 09/838,993
Filed April 20, 2001
For System and Method for Streaming
Media

Examiner Geckil, Mehmet B.
Group Art No. 2142
Confirmation No. 2725
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SEP 08 2004

September 8, 2004

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

In response to the Examiner's Restriction Requirement mailed July 8, 2004,
Applicant makes the following remarks.

CERTIFICATE UNDER 37 C.F.R. § 1.8 and § 1.10

I hereby certify that, on the date shown below, this correspondence is being

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September 8, 2004
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Remarks

Claims 1-147 are pending. The Examiner restricted claims 1-147 to the following groups.

- I. Claims 1-44, 66-69, 77-117, 136-137, and 147 drawn to a system for streaming media.
- II. Claims 45-59, 70-72, 118-135, 138, and 140-142 drawn to a system for streaming media.
- III. Claims 73-76 and 143-146 drawn to a system for processing media.
- IV. Claims 60-65 drawn to a reservation state model for streaming media.

Applicant traverses the restriction and provisionally elects Group I, claims 1-44, 66-69, 77-117, 136-137, and 147.

To the extent the Examiner determines that Groups I and II should correctly be prosecuted together and not restricted based on the comments below, Applicant provisionally elects Groups I and II with traverse.

The Examiner has incorrectly categorized and characterized the claims in the application. The Examiner has incorrectly placed the claims in different classes and sub-classes.

Regarding Group I, independent claim 1, for example, comprises a media switch, a routing processor, and a management system. Independent claim 1 does not include limitations for a stream castor or a reservation server using a domain name server protocol.

Regarding Group II, independent claim 45, for example, includes a media switch, a routing processor, and a management system. Independent claim 45 does not include limitations for media rules.

Claims depending from independent claim 1 and independent claim 45 include various limitations. Various claims depending from BOTH independent claim 1 and independent claim 45 include, for example, a media rule (Applicant is neither admitting nor denying that it is a same or similar media rule in one or more claims or stating anything about scope). Therefore, this stated reason by the Examiner for restricting Group II is not correct.

The Examiner has mischaracterized the claims and incorrectly classified the claims in different classes and sub-classes. At a minimum, the claims in Groups I and II should be in the same class and sub-class. At a minimum, the claims in Groups I and II should be prosecuted in a single application and should not be restricted.

Regarding Group III, independent claim 73 does not include a limitation for "e-commerce." A media rule is claimed in independent claim 73. A media rule also is claimed in other claims in the other groups (Applicant is neither admitting nor denying that it is a same or similar media rule in one or more claims or stating anything about scope). Admittedly, an order rule is not claimed in claims in other groups. However, an order rule limitation is not enough to place these claims in a different class and sub-class for restriction. This Group III should be in the same class and sub-class as Groups I and II.

Regarding Group IV, independent claim 60 is drawn to a reservation state model. A reservation state model (in one or more embodiments; Applicant is neither admitting nor denying that it is a same or similar reservation state model in one or more claims or stating anything about scope) is included in claims depending from independent claims 1 and 45 for Groups I and II. This Group IV should be in the same class and sub-class as Groups I and II.

Applicant has demonstrated that all claims should be prosecuted in one application and not restricted. At a minimum, Groups I and II should not be restricted and should be prosecuted in one application.

The Examiner stated the inventions are distinct because they are separately usable. The Examiner said the inventions are separately usable because they are classified in separate classes and sub-classes. The Examiner further stated that the search required for each group is different and not co-extensive for examination purposes because the groups are in different classes and sub-classes. These are the only reasons given by the Examiner. The Examiner's argument is circular.

The claims should not be grouped in separate sub-classes. Separate searches are not required for the claims.


The Examiner has not demonstrated that the claims should be grouped in four class and sub-class combinations. The Examiner has not shown that the groups are combinations/sub-combinations. The claims should not be grouped by the Examiner as combination/sub-combinations.

Since the only reason given by the Examiner for the Restriction is that the claims are in different classes and sub-classes, which has been shown to be incorrect, Applicant believes it has successfully shown the claims should not be restricted. At a minimum, the claims in Groups I and II should be prosecuted together and not be restricted.

This is intended to be a complete response to the Examiner's Restriction Requirement mailed on July 8, 2004.

Respectfully Submitted,

LATHROP & GAGE L.C.

By 

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